

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

THOMAS WILLIAMSINCLAIR RICHEY,

Plaintiff,

V.

DONALD DEAN et al.,

## Defendants.

CASE NO. C14-5071 BJR-JRC

## ORDER STAYING DISCOVERY

The District Court has referred this 42 U.S.C. § 1983 civil rights action to United States Magistrate Judge J. Richard Creature. The Court's authority for the referral is 28 U.S.C. § 636(b)(1)(A) and (B), and Magistrate Judge Rules MJR3 and MJR4.

Defendants Donald Dean and Scott Russell have filed a motion to dismiss plaintiff's action as frivolous and for failure to state a claim (Dkt. 11). Defendants raise the affirmative defense of qualified immunity in their motion (Dkt. 11, p. 10). Defendants also ask the Court to stay discovery pending a ruling on the motion to dismiss (Dkt. 11, p. 13).

Qualified immunity is “an affirmative defense that must be pleaded by a defendant.”

*Harlow v. Fitzgerald*, 475 U.S. 800, 815 (1982) (citing *Gomez v. Toledo*, 446 U.S. 635 (1980)).

1 The immunity is “*immunity from suit* rather than a mere defense to liability.” *Mitchell v. Forsyth*,  
2 472 U.S. 511, 526 (1985)(italic in original). “Until this threshold immunity question is resolved,  
3 discovery should not be allowed.” *Harlow v. Fitzgerald*, 475 U.S. 800, 818 (1982). Because  
4 defendants have raised the defense of qualified immunity, the Court orders that discovery in this  
5 action is stayed.

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7 Dated this 18<sup>th</sup> day of June, 2014.

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10 J. Richard Creatura  
11 United States Magistrate Judge  
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